

No. 829

13 June 2003

**AUTHORISATION IN TERMS OF SECTION 84(3) OF THE LOCAL GOVERNMENT:
MUNICIPAL STRUCTURES ACT, 1998: AUTHORISATION OF LOCAL
MUNICIPALITIES TO PERFORM CERTAIN MUNICIPAL FUNCTIONS ALLOCATED TO
DISTRICT MUNICIPALITIES: WESTERN CAPE**

Under the powers vested in me by section 84(3) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and after consultation with the Ministers for Finance, Health, Minerals and Energy and Water Affairs and Forestry, and after consulting the member of the Executive Council responsible for local government in each Province, I Fholisani Sydney Mufamadi, Minister for Provincial and Local Government, hereby –

- (a) repeal Government Notice No. 45 of 3 January 2003;
- (b) with effect from 1 July 2003 –
 - (i) authorise the local municipalities mentioned in the Schedule hereto to perform the functions or exercise the powers as set out in the Schedule; and
 - (ii) repeal Government Notice No. 1258 of 28 November 2000 in so far as it relates to the performance of the functions and the exercise of the powers mentioned in section 84(1)(b), (c) and (d) of the Local Government: Municipal Structures Act, 1998; and
- (c) with effect from 1 July 2004 –
 - (i) repeal Government Notice No. 1258 of 28 November 2000 in so far as it relates to the performance of the functions and the exercise of the powers mentioned in section 84(1)(i) of the Local Government: Municipal Structures Act, 1998; and
 - (ii) regulate the legal, practical and other consequences arising from the revocation of an authorisation as a result of the repeal referred to in subparagraph (i) as set out in the Schedule hereto.

FS MUFAMADI

MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT

SCHEDULE

Definitions

1. In this Schedule, unless the context otherwise indicates, or unless redefined herein, a word or expression to which a meaning has been assigned in the Structures Act and the section 12 notice has the same meaning and –

“authorised municipalities” means the local municipalities designated as WC051, WC052 and WC053 that were established by the relevant section 12 notice;

“district municipality” means the district municipality designated as DC5 that was established by the relevant section 12 notice;

“previous authorisation” means an authorisation referred to in Government Notice No. 1258 of 28 November 2000;

“section 12 notice” means Provincial Notice No. 505, 506, 507 or 508 of 2000, as the case may be, published in the *Western Cape Provincial Gazette* No. 5593 dated 22 September 2000, which established the district municipality and local municipalities specified therein in terms of the Structures Act; and

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

Authorisation

2. (1) The authorised municipalities are authorised to perform the functions and exercise the powers mentioned in –

- (a) section 84(1)(b) and (d) of the Structures Act, in their respective areas of jurisdiction; and
- (b) section 84(1)(c) of the Structures Act, or any aspect thereof, to the extent that those functions and powers were performed or exercised before the effective date referred to in the relevant section 12 notice by the transitional local councils or transitional rural councils mentioned in the definition of “disestablished municipality” in the respective section 12 notices.

(2) Any authorised municipality must assume full responsibility and accountability for the functions or powers that it has been authorised to perform or exercise in terms of subitem (1), and their effective and efficient performance or exercise, as the case may be.

Legal, practical and other consequences of the authorisation

3. (1) The regulation of the legal, practical and other consequences of a previous authorisation continue to apply to an authorisation in terms of item 2 in so far as it is applicable.

(2) In so far as an authorisation in terms of item 2(1)(a) extends the previous authorisation, the provisions regarding –

- (a) the transfer of assets, rights, liabilities and obligations;
- (b) the transfer of staff;
- (c) administrative units; and
- (d) the continued application of by-laws and resolutions,

set out in the relevant section 12 notice, apply, with the necessary changes required by the context, to that part of the performance of a function or exercise of a power by an authorised municipality that relates to the extended part of the authorisation.

(3) For purposes of subitem (2), any reference in the provisions of the relevant section 12 notice referred to in that subitem to –

- (a) a disestablished municipality, must be construed as a reference to the district municipality; and
- (b) a new municipality, must be construed as a reference to the relevant authorised municipality.

Legal, practical and other consequences of revocation of previous authorisation

4. (1) As a result of the revocation of the previous authorisation related to the performance of the functions and the exercise of the powers mentioned in section 84(1)(i) of the Structures Act, the provisions regarding –

- (a) the transfer of assets, rights, liabilities and obligations;
- (b) the transfer of staff;

- (c) administrative units; and
 - (d) the continued application of by-laws and resolutions,
- set out in the relevant section 12 notice, apply, with the necessary changes required by the context, to the performance of a function or exercise of a power related to an environmental health service.

(2) For purposes of subitem (1), any reference in the provisions of the relevant section 12 notice referred to in that subitem to –

- (a) a disestablished municipality, must be construed as a reference to an authorised municipality;
- (b) a new municipality, must be construed as a reference to the district municipality; and
- (c) the effective date, must be construed as 1 July 2004.